

**DURHAM, NORTH CAROLINA
MONDAY, MAY 5, 2008
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell read a proclamation designating May as Drinking Water Month and presented certificates to the following 2008 Water Conservation Poster Contest Winners:

**Water – Use It Wisely”
Grades K – 2**

| | | | |
|-----------------------|-----------------|-----------------------|------------------------|
| 1 st Place | Annie Chen | 2 nd Grade | Forest View Elementary |
| 2 nd Place | Bailey Hutchins | 2 nd Grade | Hope Valley Elementary |
| 3 rd Place | David Scott | 2 nd Grade | Hope Valley Elementary |

Grades 3 – 5

| | | | |
|-----------------------|-----------------|-----------------------|----------------------------|
| 1 st Place | Edie Evans | 4 th Grade | Durham Academy |
| 2 nd Place | Madeleine Samet | 4 th Grade | Durham Academy |
| 3 rd Place | Ryan Samet | 4 th Grade | Durham Academy |
| (tie) | | | |
| 3 rd Place | Marlen Valencia | 5 th Grade | G. Watts Montessori Magnet |
| (tie) | | | |

Grades 6 – 8

| | | | |
|-----------------------|--------------------------------|-----------------------|--------------------------|
| 1 st Place | Cameron Walsh | 6 th Grade | Carrington Middle School |
| 2 nd Place | Stella Jayala & Brenea Tillman | 6 th Grade | WG Pearson Magnet Middle |
| 3 rd Place | Clarice Baker | 6 th Grade | WG Pearson Magnet Middle |

At this time during the meeting, Mayor Bell recognized John Stanley a member of Compassionate Employer Recognition Team for the Compassionate Friends who presented the City of Durham with the Compassionate Employer Recognition Award. The City was nominated for this award by Angela Henderson of Equal Opportunity/Equity Assurance, whose son, Jonathan Warren Henderson died on January 25, 2006.

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Mayor Bell read proclamations recognizing Threshold presented to Susie Deter; May 2008 as Older American Month presented to Allison Hubbard of Parks and Recreation; May 8, 2008 as Children's Mental Health Awareness Day presented to Nick Tise who made comments and May 11-17, 2008 as Police Week presented to Police Chief Jose Lopez.

Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: Voices Together; DELTA Sigma Theta Alumnae Chapter -- renovation of their house; DAP renovation groundbreaking - Parks and Recreation; Durham Convention and Visitors Bureau Tribute Luncheon -- Bull Durham Movie; and Preservation Durham Annual Home Tour.

Council Member Ali: Rev. Earl and Wanda Boone --Understanding Addictions and Its Impact on Families and Supporting Recovery Seminar.

Mayor Pro Tempore Cole-McFadden: Carter Community School Career Day, Durham Leadership Prayer Breakfast; National Day of Prayer; DELTA House -- Mortgage Burning; University of Water Management Graduation; Meals on Wheels -- Gospel Benefit Concert; Special Olympics -- Parks & Recreation and DCVB Annual Tribute Luncheon.

Council Member Clement: National Day of Prayer and organizers; and Human Resources staff during the visitation of City Manager candidates.

Mayor Bell thanked his colleagues for participating in events.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Baker informed Council that agenda item #40 [T W Alexander Properties Z07-24] should occur after agenda item #43 [Plan Amendment - T W Alexander Properties]. In addition, he requested that agenda items #42 [Sierra Initial [Z07-14A] and 52 [Purchase and Contract Approval Thresholds] be referred back to the administration.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Agenda Items 15, 16 and 17 were pulled.

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MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve City Council minutes for the April 7, 2008 City Council Meeting; and

To approve City Council action taken at the March 20, 2008 City Council Work Session was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications for citizens to fill four (4) vacancies on the Capital Program Advisory Committee to represent PAC 3, PAC 4, PAC 5 and Financial Management with the terms to expire on March 31, 2010 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications for citizens to fill two (2) vacancies on the Human Relations Commission for a Non-Minority Female and an Other Racial Minority Group Female with the terms to expire on June 30, 2011 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy on the

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Citizens Advisory Committee with the term to expire on June 30, 2010 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CABLE TV ADVISORY BOARD - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy on the Cable TV Advisory Board with the term to expire on October 31, 2008 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: WORKFORCE DEVELOPMENT BOARD - RECEIPT AND ACCEPTANCE OF APPLICATIONS AND APPOINTMENTS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications and to appoint Alfred L. Sullivan and David Mooring to the Workforce Development Board to represent Private Sector with the terms to expire on June 30, 2010 as recommended by the Durham Chamber of Commerce was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM PLANNING COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications for citizens to fill two (2) vacancies on the Durham Planning Commission to represent District 2 and District 3 with the terms to expire on June 30, 2011 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM HISTORIC PRESERVATION COMMISSION - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Historic Preservation Commission representing Historian with the term to expire

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on September 1, 2010 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – TERM CONTRACT FOR SODIUM HYDROXIDE -
BRENNTAG SOUTHEAST, INC.**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from Brenntag Southeast, Inc. in the amount of \$1,238,290.00 for providing the City with its estimated two (2) years requirements for Sodium Hydroxide;

To authorize the City Manager to enter into a contract with Brenntag Southeast, Inc. in the amount of \$1,238,290.00 for providing the City with its estimated two (2) years requirements for Sodium Hydroxide; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING - A 150.71 LINEAR FOOT UNNAMED ALLEY
OFF CHAPEL HILL ROAD (SC0800001)**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution to set a public hearing on June 2, 2008 for the proposed closing of a 150.71 linear foot unnamed alley off Chapel Hill Road was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9548

**SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF
ASSESSMENT ROLLS**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt resolutions setting public hearings for May 19, 2008, for confirmation of the following assessment rolls was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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Curb, Gutter and Paving on Castlerock Drive from NC Hwy 55 to end of cul-de-sac;

Curb, Gutter and Paving on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16;

Water and Sewer Laterals on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16;

Sewer Main on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16;

Curb, Gutter and Paving on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A;

Water and Sewer Laterals on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A; and

Water Main on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A.

**SUBJECT: CONTRACT TO AUDIT ACCOUNTS FOR FISCAL YEAR
ENDING JUNE 30, 2008 - MCGLADREY & PULLEN**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager, the Mayor, and the ASOC Chairperson to execute a contract with McGladrey & Pullen at a cost of \$136,500.00, plus out-of-pocket expenses, to provide audit services to the City of Durham for the fiscal year ending June 30, 2008; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO SUB-RECIPIENT AGREEMENT WITH
DURHAM COUNTY HABITAT FOR HUMANITY**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute an Amendment to the existing Sub-recipient Agreement between Durham County Habitat for Humanity and the City of Durham; and

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To authorize the City Manager to modify the amendment before execution provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the contractor was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT SUB-RECIPIENT CONTRACT WITH DURHAM COUNTY HABITAT FOR HUMANITY FOR ACQUISITION/DEMOLITION OF THREE (3) SINGLE FAMILY VACANT LOTS IN SOUTHWEST CENTRAL DURHAM - 1011 AND 1103 MOREHEAD AVENUE AND 1006 FAIRVIEW STREET

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the expenditure of up to \$71,665.00 in FY 07-08 CDBG funds for acquisition/demolition;

To authorize the City Manager to execute a Sub-recipient Contract with Durham County Habitat for Humanity in an amount up to \$71,665.00 to acquire/demolish three properties, located at 1011 and 1103 Morehead Avenue and 1006 Fairview Street; and

To authorize the City Manager to modify the agreement and other related documents before execution, provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the contractor was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACTS PM08A AND PM08B FOR PARKS MAINTENANCE MOWING, TRIMMING AND LITTER AND DEBRIS REMOVAL, ZONES A AND B - REALISCAPE, INC. - TRUGREEN LANDCARE LLC

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with Realiscape, Inc. for Contract PM08A, Parks Maintenance Mowing, Trimming and Litter and Debris Removal, Zone A, in the amount of \$243,695.82;

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and that the modifications are consistent with the general intent of the existing version of the agreement,

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To authorize the City Manager to execute a contract with Trugreen Landcare LLC for Contract PM08B, Parks Maintenance Mowing, Trimming and Litter and Debris Removal, Zone B, in the amount of \$469,747.88; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and that the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: INCREASE CMAR CONTRACT CAP FOR DURHAM
PERFORMING ARTS CENTER (DPAC) - SKANSKA**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to increase the Skanska contract contingency by \$2,425,000.00 thereby increasing the Skanska GMP limit from \$36,380,060.00 to \$38,805,060.00 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED ACQUISITION OF PROPERTY LOCATED AT 5418
AND 5420 FAYETTEVILLE ROAD FOR PHASE II OF THE
FAYETTEVILLE ROAD WIDENING PROJECT - WILLIE
BELSER HEIRS**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the fee simple absolute acquisition of land and improvements from the Willie Belser Heirs (Parcel ID #147697 and 147698) for \$99,000.00 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED SALE OF 2218 E. MAIN STREET (PARCEL 112294)
TO MACK VICKERS**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to accept the back-up offer of \$500.00 from Mack L. Vickers, Jr. to purchase 2218 E. Main Street, Parcel 111833, City Tract # 489; and

To authorize the City Manager to sell and the Mayor to convey the property with a non-warranty deed subject to reservations and easements to be retained by the City of Durham was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.
Noes: None. Absent: None.

SUBJECT: AMENDMENT NO. 2 TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER & AMENDMENT TO THE AGREEMENT TO DESIGN RENOVATIONS FOR THE SOLID WASTE TRANSFER STATION BETWEEN THE CITY OF DURHAM AND KCI ASSOCIATES OF NORTH CAROLINA, P.A. - BALFOUR BEATTY CONSTRUCTION

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to negotiate and execute Amendment No. 2 with Balfour Beatty Construction for the renovation of the Solid Waste Transfer Station, if the final Guaranteed Maximum Price does not exceed \$794,869.00;

To establish a project contingency equal to the difference between \$840,169.00, which is the full amount budgeted for construction phase services, and the final GMP;

To authorize the City Manager to negotiate and execute change orders on the Solid Waste Transfer Station Project, provided the total project cost does not exceed the amount budgeted for construction phase services;

To authorize the City Manager to execute a Contract Amendment to the “Agreement to Design Renovations for the Solid Waste Transfer Station between the City of Durham and KCI Associates of North Carolina, P.A” to increase the contract amount by \$6,429.00 for a total amount of \$31,729.00; and

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED SALE OF PARCEL #S 108616, 108617 AND 108618 TO SELF-HELP VENTURES FOR AFFORDABLE HOUSING AND AMENDMENT TO FY 06-07 CDBG SUB-RECIPIENT AGREEMENT WITH SELF HELP CDC

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to declare Parcel #s108616, 108617, 108618 surplus;

To adopt a Resolution authorizing the private sale of Parcel #s 108616, 108617 and 108618 to Self-Help Ventures Fund under G. S. 160A-279;

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To authorize the Mayor to convey the properties by a non-warranty deed restricting the properties to use for affordable housing;

To authorize the City Manager to execute the Development Agreement and Right of Entry Agreement, (5) authorize the City Manager to amend the FY 06-07 CDBG Subrecipient Agreement with Self Help CDC, and

To authorize the City Manager to make changes to the legal documents so long as such changes are consistent with the intent of this agenda item memo and any further instructions from City Council was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9549

SUBJECT: 2007 ANNUAL REPORT OF THE DEVELOPMENT REVIEW BOARD

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive the 2007 Annual Report of the Development Review Board was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: USE OF FEDERAL ASSET FORFEITURE FUNDS FOR THE PURCHASE OF EQUIPMENT TO BE USED FOR POLICE OPERATIONS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the Use of Federal Asset Forfeiture Funds in an amount not to exceed \$175,000.00 for the purchase of equipment to be used for police operations was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FOR DOMESTIC VIOLENCE PROJECT AND COMMUNITY LIFE COURT - COUNTY OF DURHAM

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute an interlocal agreement between the City of Durham and the County of Durham under which \$15,000.00 will be reimbursed to the County to fund a portion of salary and benefits for one (1) ADA Position for the 14th Judicial District to prosecute domestic violence cases for the period January 1, 2008

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through June 30, 2008 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT ST-228, 2008 STREET REPAIRS AND
RESURFACING - BARNHILL CONTRACTING COMPANY**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract for ST-228 Street Repairs and Resurfacing with Barnhill Contracting Company in the amount of \$1,474,579.50;

To establish a contingency fund in the amount of \$221,186.93 (15%); and

To authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$221,186.93 and the total project cost does not exceed \$1,695,766.43 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH REAL
ESTATE ASSOCIATES, INC. TO SERVE BRIGHTLEAF
COMMONS**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a water and sewer extension agreement with Real Estate Associates to serve Brightleaf Commons; and

To authorize the City Manager to modify the contract prior to execution provided that such modifications do not increase the dollar amount of the contract and do not significantly decrease the obligations of the contractor was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH EPCON
COMMUNITIES CAROLINAS, LLC TO SERVE EPCON
NEIGHBORHOOD**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a water and sewer extension agreement with EPCON Communities Carolinas, LLC to serve EPCON Neighborhood; and

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To authorize the City Manager to modify the contract prior to execution provided that such modifications do not increase the dollar amount of the contract and do not significantly decrease the obligations of the contractor was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT ST-227 STREET IMPROVEMENTS –
THALLE CONSTRUCTION COMPANY**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract amendment for ST-227 Street Improvements in the amount of \$1,326,000.00; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: APPROVAL OF A JOINT FUNDING AGREEMENT WITH THE
U.S. GEOLOGICAL SURVEY FOR CITY OF DURHAM
RAINFALL AND STREAMFLOW NETWORK**

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the Joint Funding Agreement with the United States Geological Survey and to pay, under such agreement, and additional letters implementing such agreement, an amount of up to \$172,000.00 for the time period in the agreement, for capital expenses associated with the precipitation and stream flow monitoring system; and

To authorize the City Manager to make changes to the Joint Funding Agreement provided such changes do not increase the City's obligations or substantially modify the intent or material conditions of the project to the detriment of the City was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HOMEOWNERSHIP PURCHASE PROGRAMS UPDATE

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive the report on two enhanced homeownership purchase programs – Neighborhood Incentive Program (NIP) and Individual Development Account (IDA)

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Program – and changes to the housing purchase program underwriting guidelines was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: APPROVAL OF THE FY 2008-09 ANNUAL ACTION PLAN FOR THE USE OF CDBG, HOME, ADDI AND ESG FUNDS

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the FY 2008-09 Annual Action Plan for the use of CDBG, HOME, ADDI and ESG funds for submission to the U.S. Department of Housing and Urban Development;

To authorize the City Manager to execute all administrative requirements and contractual documents necessary for implementation of the Annual Action Plan to include all CDBG, HOME/ADDI and ESG program agreements and related documents;

To adopt the City of Durham/U.S. Department of Housing and Urban Development Community Development Block Grant project ordinance in the amount of \$1,996,798.00;

To adopt the City of Durham/U.S. Department of Housing and Urban Development HOME Investment Partnerships Program/American Dream Down payment Initiative grant project ordinance in the amount of \$1,404,985.00; and

To adopt the City of Durham/U.S. Department of Housing and Urban Development Emergency Shelter Grant project ordinance in the amount of \$84,684.00 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #s 13585, 13586 and 13587

The City Council disposed of the following agenda items at the April 24, 2008 Work Session:

32. Capital Program Advisory Committee (C-PAC) Quarterly Report

To receive the Capital Program Advisory Committee's (C-PAC) Quarterly Report.

(A report was received at the 4/24/08 Work Session)

34. Brownfields Assessment Grant Update (Environmental Protection Agency)

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To receive a presentation on the current status of a Brownfields Assessment Grant Funded by the US Environmental Protection Agency.

(A presentation was received at the 4/24/08 Work Session)

35. Update on the City of Durham's Compliance with the Americans with Disabilities Act (ADA)

To receive a presentation on the current status of the City of Durham's Compliance with the Americans with Disabilities Act (ADA).

(A presentation was received at the 4/24/08 Work Session)

36. City Streets 2008

To receive a presentation on City Streets 2008.

(A presentation was received at the 4/24/08 Work Session)

46. Uplift East Durham, Asbury Temple Methodist Church

To receive comments from Aidil Collins regarding North Carolina Department of Transportation design for Alston Avenue.

(Citizen did not appear at the 4/24/08 Work Session – per Citizen's request)

47. Durham Area Designers

To receive comments from Steve Gaddis regarding an update on the Strategic Transit Advisory Commission.

(Comments were received at the 4/24/08 Work Session)

48. Milton C. Jordan, Sr.

To receive comments from Milton C. Jordan, Sr. regarding Durham Area Transit Authority.

(Citizen did not appear at the 4/24/08 Work Session)

50. Development Review Process

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To receive a presentation on the Development Review Process.

(A presentation was received at the 4/24/08 Work Session)

[GENERAL BUSINESS AGENDA]

**SUBJECT: ADOPTION OF PROPOSED WATER AND SEWER RATES FOR
FY 2008-2009**

To adopt an Ordinance amending Durham City Code Section 70-51, Monthly Rates for Water Service, Sewer Service, and Water and Sewer Service and adopting revised fees in the City's Fee Schedule with an effective date on June 1, 2008; and

To adopt an Ordinance amending Durham City Code Section 70-50(a) pertaining to Water and Sewer Capital Facilities Fees and adopting revised fees in the City's Fee Schedule with an effective date of September 1, 2008.

Interim Water Management Director Don Greely made comments on the Water and Sewer Rates for FY 2008-09. He stated the current proposal is for rates to be adopted with an effective date of June 1, 2008. He reported this is the first year for a tier rate structure and staff is recommending the tier rates to be proposed for the single-family residential homes, irrigation rates and rates for non-residential customers be set at the tier 3 rate.

Casey Steinbacher, with the Greater Durham Chamber of Commerce, asked Council to delay the implementation date to allow the business community an opportunity to plan for the increase.

Interim Water Management Director Don Greeley gave an explanation of the base rates, capital improvement program projects and drought mandated projects that will be funded under the base rates and the tier water rate system.

Don Greely made comments on the water conservation public education and utility fixture rebate programs approved by the City Council and discussed water costs.

Council Member Catotti stated she would be making a motion to support this request with an amended effective date of July 1, 2008.

Council Member Brown explained why the City does not have a choice commenting on the reduced federal assistance for water projects, leaks that need to be repaired and the current low-water rate.

Interim Water Director Don Greely stated the main reason for the rates to go into effect June 1st is to send a pricing signal to our irrigation customers and single-family residential customers that use water to irrigate. In response to delaying the

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implementation date, he stated postponing the rate increase until July does not provide any hardship; however, if the increase is delayed to January 1, 2009, the cost would be over \$5 million in revenue that the City would not receive which would impact the capital improvement program.

Council Member Woodard made comments regarding the community-wide confusion regarding the tier rates and the increase in base rates. He requested an aggressive short-term education program to explain this proposal, its goal and its implication for water users by utilizing list-serves and presentations using government channel 8. He asked staff to provide a short-term strategy for explaining tier rates/increase in base rates at the May 8, 2008 City Council Work Session so that on July 1st the residents, businesses and organizations could understand what is being proposed.

For clarification on delay requested, Casey Steinbacher stated the business community is requesting an effective date of January 1, 2009--the start of the fiscal year so that businesses could budget for this expense.

Council Member Ali asked staff to seek assistance from the marketing and advertising firm to help with the education campaign.

Interim Water Management Director Vickie Westbrook reported staff will approach them for a response and report back within the next few weeks.

Mayor Pro Tempore Cole-McFadden asked staff to provide the dollar amount available in the hardship fund for residential customers who are not able to pay their bill and how these funds are distributed by Social Services.

Interim Water Management Director Don Greely reported there is currently over \$100,000 available in the hardship fund and additional information requested will be provided at the Work Session.

Mayor Bell made comments in support of July 1st deferral, but expressed concern with the January 1, 2009 deferral requested by the business community if it is not for the entire community.

City Manager Baker gave the water supply update. The following memo was provided to Council:

CITY OF DURHAM, NORTH CAROLINA

May 5, 2008

MEMO TO: Patrick Baker, City Manager

FROM: Vicki Westbrook, Deputy Director, Water Management

May 5, 2008

SUBJECT: Water Supply Update, May 5, 2008

Drought conditions have significantly improved throughout the state as determined by the NC Drought Monitoring Advisory Council. As of today, Durham County is mostly designated as “Abnormally Dry,” with a small portion of the County still in D – 1, Moderate Drought status. Water restrictions were relaxed to Stage III, Moderate Mandatory Conservation effective Wednesday, April 2nd. Watering is now allowed two days per week; however no marked increase in usage has been noted on allowed days of watering (Wednesdays and Saturdays) to date. In a month to month comparison, April '08 water use (22.61 MGD) was 20% lower than water use in April '07 (28.30 MGD). The goal is to keep water usage in the range of 10 to 12% lower than last year at the same time, while accounting for increased usage due to cooling towers and allowed irrigation.

Current status:

Recent rain events have refilled both lakes, however after rain events, stream flows have been falling to below normal levels. Current lake levels:

- Lake Michie is now full at 341.00 MSL
- Little River Lake is now full at 355.00 MSL
- The combined lake capacity is now 100% - up from a low of 11% on 12/23/07.

Days of Supply of using 30-day running average of 22.84 MGD*

- Premium water remaining based on usable storage in Lake Michie and Little River Lake of 6.349 BG is 278 days
- Teer Quarry is now off line, with 16 days of supply available
- 1.2 Billion Gallons (below the intakes of Little River & Lake Michie) = 53 days
- Total days = 347
- Please note all calculations assume no additional rainfall and zero stream flows

The 30-day average demand includes all demand exerted on the two supply lakes. There is no offset by Cary purchases and the entire 30-day running average is without supplemental water supply

Additional resources:

- Teer Quarry is now off line; approximately 375 million gallons still available for use.
- Staff pumped approximately 56 MG from the Eno River in April and 8 MG in May to day while meeting the seasonal requirements (March through May) to maintain at least 30 cubic feet per second beyond the pump station.
- Staff continues to work with Town of Cary staff to increase the pumping capacity of the #1 interconnection up from 2 MGD to 4 MGD. From October through March (Cary pumping is now offline), purchase of water from Cary totaled 337.53 MG. Upon completion, the second Cary interconnection could provide in up to 7 MGD, allowing full access of our 10 MGD Jordan Lake allocation.

Council held discussion on dialogue with the business community.

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Council Member Clement expressed concern with a water rate increase in light of what's going on in the economy and asked staff to have more dialogue with the business community.

Council Member Catotti asked staff to provide at the Work Session how the hardship information would be shared with the community.

A motion was made by Council Member Catotti seconded by Council Member Woodard to approve the item as printed on the agenda with an effective date of July 1, 2008 for monthly rates for water service, sewer service and water and sewer service.

A substitute motion was made by Council Member Clement to postpone proposed increase to January 1, 2009. Motion dies for a lack of a second.

MOTION by Council Member Catotti seconded by Council Member Woodard to adopt an Ordinance amending Durham City Code Section 70-51, Monthly Rates for Water Service, Sewer Service, and Water and Sewer Service and adopting revised fees in the City's Fee Schedule with an effective date on July 1, 2008; and

To adopt an Ordinance amending Durham City Code Section 70-50(a) pertaining to Water and Sewer Capital Facilities Fees and adopting revised fees in the City's Fee Schedule with an effective date of September 1, 2008 was approved at 8:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #s 13593 and 13594

SUBJECT: PURCHASE AND CONTRACT APPROVAL THRESHOLDS

To adopt a Resolution to supersede Resolution #7638 and grant the City Manager authority to make, approve, award, execute and amend service contracts as long as the original or amended amount of the contract does not exceed \$150,000.00 for services; and

To direct the City Manager to make a recommendation, to the appropriate Council committee, for a local act to be adopted by the N. C. General Assembly during 2009 that will allow the Council to delegate authority to the City Manager to make, approve, award and execute the purchase of apparatus, supplies, materials and equipment, and contracts for construction and repair contracts with dollar amount limits as specified by the Council.

Note: By a vote of 7/0, the City Council referred this item back to the administration at the request of the City Manager.

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[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: MINI ASSESSMENT ROLL FOR SEWER MAIN ON HILLOCK PLACE FROM WEST PROPERTY LINE OF TAX MAP 821-1-6 TO NORTH PROPERTY LINE OF TAX MAP 821-1-7H

Ed Venable, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Catotti to find that the property of County of Durham, identified as Hillock Place, Lot 1, PIN 0814-02-55-2161, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$3,783.03 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer (in accordance with City policy) was approved at 8:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: MINI ASSESSMENT ROLL FOR WATER MAIN ON MASSEY CHAPEL ROAD FROM ABRON DRIVE TO FAYETTEVILLE ROAD - SARAH NICHOLSON - 7722 MASSEY CHAPEL ROAD

Mayor Bell opened the public hearing.

Ed Venable, of the Public Works Department, made comments on this item.

There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Catotti to find that the property of Sarah Nicholson, identified as 7722 Massey Chapel Road, PIN 0718-04-61-6104, has benefited from the water main improvement and to confirm the assessment in the original amount of \$1,920.00 with the terms of payment to be those specified by the Assessment Hardship Policy was approved at 8:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PLAN AMENDMENT – T.W. ALEXANDER PROPERTIES (A07-09) – HOCK DEVELOPMENT CORPORATION – WEST OF T. W. ALEXANDER DRIVE AND EAST OF SOUTH ALSTON AVENUE

May 5, 2008

To conduct a public hearing to receive public comments on the T.W. Alexander Properties (A07-09) Plan Amendment; and

To adopt a Resolution to Change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Office to Commercial and Commercial to Office.

Scott Whiteman, of the City/County Planning Department, certified that notifications have been provided as required by law and affidavits are on file for public review for all Planning Department items on the agenda tonight. He briefed Council on the plan amendment, reported the proposal is consistent with the criteria for Plan amendments and with the policies of the Comprehensive Plan and stated staff and the Planning Commission have recommended approval of this request.

Mayor Bell opened the public hearing.

Patrick Byker, representing the applicant, urged Council to approve the plan amendment.

There being no one to speak in opposition to this request, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to receive public comments on the T.W. Alexander Properties (A07-09) Plan Amendment; and

To adopt a Resolution to Change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Office to Commercial and Commercial to Office was approved at 8:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9550

SUBJECT: ZONING MAP CHANGE - T.W. ALEXANDER PROPERTIES (Z07-24) – HOCK DEVELOPMENT CORPORATION – BETWEEN SOUTH ALSTON AVENUE AND T. W. ALEXANDER DRIVE, SOUTH OF STONESTHROW LANE

To conduct a public hearing to receive public comments on the zoning map change for T.W. Alexander Properties (Z07-24);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map

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change case Z07-24 out of CN, RS-M, and RR and placing same in and establishing same as OI(D) and CN(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the pending plan amendment (A07-09) be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, should the plan amendment be approved, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, should the plan amendment be approved, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 7-4 on March 11, 2008. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on concerns regarding impact on the environment and inadequate bicycle and pedestrian facilities provided in the development plan.

[The site is located between South Alston Avenue and T.W. Alexander Drive, south of Stonestrow Lane. PINs: 0737-01-47-4898, -48-5553]

Scott Whiteman, of the City/County Planning Department, briefed Council on the staff report commenting on the proposed use and that the proposal is consistent with the future land use map. He reported there is a development plan with this request and there are a number of committed elements to include a trail and greenway easement along Burdens Creek, a 10-foot setback from the gas easement for any parking lot; bicycle connection between S. Alston Avenue and T. W. Alexander Drive and a number of traffic improvements required by the traffic impact analysis. He stated staff is recommending approval and the Planning Commission recommended denial of this request.

Mayor Bell opened the public hearing.

Relative to the Planning Commission's vote, Mr. Whiteman stated the Planning Commission indicated that the land use that is being requested was appropriate; however, they had concerns relative to the proposed development. They expressed concerns with no commitment to not build in the 100-year floodplain area and the lack of bike-lanes on South Alston Avenue or T. W. Alexander.

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Proponents

Patrick Byker, representing the applicant, spoke in support of this item. He stated the purpose of this zoning map change is to support 126,000 square foot office building that will provide housing for the workers of the Duke University Health System who are currently in three buildings. He made comments on the pond located on the site, development and site plans. He stated there is no parking in the floodplain and any future development in the floodplain would require a major special use permit to be approved by the Council. He made comments on the current bike lanes along Alexander Drive--14' wide outside lanes at that facility. He stated the right-of-way along the property on South Alston Avenue is restricted by a gas line easement so, therefore, the applicant cannot construct a bike lane along S. Alston Avenue, but agreed to provide a bicycle connection between S. Alston Avenue and T. W. Alexander across the site to provide bicyclists with a short-cut while riding their bike in this area. Finally, he stated this proposal would create a good tax base and would greatly assist the operations of Duke University Health System. He urged Council to support this request.

George Stanziale stated he was present to answer questions.

No one spoke in opposition to this zoning map change.

Council Member Catotti asked questions regarding the floodplain, bike lanes, parking lot and landscaping issues that were answered by staff.

For clarification, Scott Whiteman stated if the applicant proposes any development in the floodplain area, it would require a major special permit which would have to be approved by the City Council.

Patrick Byker, representing the applicant, addressed the landscaping issue raised by the Planning Commission. He stated they pulled the parking area along Alston Avenue back from the gas line easement that would allow them to put in street trees for additional buffering.

Planning Director Steve Medlin stated the applicant is not offering any additional landscaping other than what is required. He briefed Council on the street tree provision. Based on the evaluation of the development plan and additional information provided by the applicant, he stated staff is concurring that the presence of the two utility easements and improvements within those easements preclude the ability to move poles or lines.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the zoning map change for T.W. Alexander Properties (Z07-24);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-24 out of CN, RS-M, and RR and placing same in and establishing same as OI(D) and CN(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the pending plan amendment (A07-09) be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13588

**SUBJECT: ZONING MAP CHANGE - MCCLAIN HOUSES (Z0800006) –
LARRY WILLIAMS, TGEMINI HOMES – NORTHEAST
CORNER OF CHEEK ROAD AND ROANE STREET**

To conduct a public hearing to receive public comments on the zoning map change for McClain Houses (Z0800006);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800006 out of RR placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-0 on March 11, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

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[The site is located at the northeast corner of Cheek Road and Roane Street. PINs: 0842-17-20-3753, -3898)]

Scott Whiteman, of the City/County Planning Department, briefed Council on the zoning map change. He noted the request is consistent with the future land use designation of the Comprehensive Plan and stated staff and the Planning Commission recommended approval of this request.

Mayor Bell opened the public hearing.

Proponent

Larry Williams, representing the applicant, spoke in support of this zoning map change. He stated this area is being revitalized with new housing that would be great and urged Council to support this request.

No one spoke in opposition to this request.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to receive public comments on the zoning map change for McClain Houses (Z0800006);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800006 out of RR placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13589

SUBJECT: SIERRA INITIAL ZONING MAP CHANGE (Z07-14A) – CITY OF DURHAM – EAST SIDE OF DOC NICHOLS ROAD, NORTH OF LEESVILLE ROAD AND EAST OF OLIVE BRANCH ROAD

To conduct a public hearing to receive public comments on the initial zoning map change for Sierra Initial (Z07-14A);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 3.000, RR; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the east side of Doc Nichols Road, north of Leesville Road and east of Olive Branch Road. PIN's 0860-03-33-3314, -01-20-8767, 0767-01-27-6679, -28-5772]

Note: By a vote of 7/0, the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: ZONING MAP CHANGE - SOUTHWEST REGIONAL LIBRARY (Z0800004) – COUNTY OF DURHAM – EAST SIDE OF SHANNON ROAD, NORTH OF OLD CHAPEL HILL ROAD, SOUTH OF MARTIN LUTHER KING, JR. PARKWAY

To conduct a public hearing to receive public comments on the zoning map change for Southwest Regional Library (Z0800004);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800004 out of OI(D) and RS-10 and placing same in and establishing same as OI; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

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Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-0 on March 11, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site is located on the east side of Shannon Road, north of Old Chapel Hill Road, south of Martin Luther King, Jr. Parkway. PINs: 0810-14-33-4686, -5910, -34-5036]

Scott Whiteman, of the City/County Planning Department, briefed Council on the zoning map change. He commented on the use, reported the request is consistent with the future land use map of the Comprehensive Plan and stated staff and the Planning Commission have recommended approval of this request.

Mayor Bell opened the public hearing.

Proponent

Bob Peters, representing the applicant, spoke in support of this request. He commented on meetings held with the community who support this request.

No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Brown to receive public comments on the zoning map change for Southwest Regional Library (Z0800004);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800004 out of OI(D) and RS-10 and placing same in and establishing same as OI; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13590

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**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT
AMENDMENT – FEMA FIRM UPDATE (TC0800002)**

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – FEMA Firm Update (TC0800002); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 8, Environmental Protection.

City/County Planning Director Steve Medlin reported the text amendment is to modify a date which is a requirement of FEMA and stated staff and the Planning Commission have recommended approval of this request.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments on the Unified Development Ordinance (UDO) Text Change – FEMA Firm Update (TC0800002); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 8, Environmental Protection was approved at 9:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13591

**SUBJECT: STREET, PARKS AND RECREATION AND OPEN SPACE
IMPACT FEE REVISIONS**

To conduct a public hearing on May 5, 2008 to receive citizen's comments on proposed changes to the Street, Parks and Recreation and Open Space Ordinance (Durham City Code - Chapter 25); and

To adopt the revised Street, Parks and Recreation and Open Space Ordinance (Durham City Code - Chapter 25).

Interim Budget Director Bertha Johnson outlined the purpose of this item. She stated this public hearing is to receive public comment on the proposed changes to the Street, Parks & Recreation and Open Space impact fees effective July 1, 2009. She reported phase 1 changes to the Street, Parks and Recreation and Open Space impact fees were approved by Council in March with an effective date of July 1, 2008.

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Mayor Bell opened the public hearing.

Patrick Byker, representing NAIOP [National Association of Industrial and Office Properties], made comments on letters sent to Council by NAIOP and urged Council to defer consideration of the July 1, 2009 fee increases pending improvement of the development review process.

Council Member Catotti disagreed with request for deferral stating it is important to separate the development review process and the impact fees and to maintain investment in our capital improvements including streets, parks and recreation and open space for which these fees would accomplish.

Interim Budget Director Bertha Johnson reported the last increase for transportation impact fees was in 2000.

For clarification, Patrick Byker stated NAIOP is requesting a deferral on the street impact fee only.

Deputy City Manager Ted Voorhees addressed the downside of honoring NAIOP's request. He made comments on the calculation rate which is unrelated to the development review process.

Council Member Woodard made comments regarding the fees which have not been revised until 1989 [Parks & Open Space] and 2000 [Transportation], on the year-long discussion on this proposal, and the development review process. He felt that the parks, open space and street impact fees should not be held hostage by the development review process.

Mayor Bell raised a concern with approving this item tonight. He stated he is not convinced that there is no relationship between the development fees, parks and recreation fees, etc. Also, he made comments on the suggestion that was made at the Work Session regarding specific areas that he wanted the administration to review reducing dates within three month regarding the development review process which would be a step in the direction to give some indication that the City is addressing the development review process.

Council Member Brown stated there is a relationship between the development review process and development, but he could separate the two. Regarding the development review process, Council Member Brown stated the following areas need to be reviewed: 1) process is way over emphasized, 2) some decisions seemed to be done on an ad hoc basis, 3) Durham is trying to do too much—red tape and 4) culture with some staffers regarding the various steps of this process that time is not of the essence.

Interim City Attorney Sindelar explained that the revised impact fee ordinance that had been substituted in the Council's packet Monday night correctly referenced Section 30 of

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the recodified city code and made other necessary technical changes to the impact fee ordinance, in addition to changing the fees. She recommended that if the Council's vote on the ordinance and fees failed, a second vote on the technical changes alone be taken.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive citizen's comments on proposed changes to the Street, Parks and Recreation and Open Space Ordinance (Durham City Code - Chapter 25); and

To adopt the revised Street, Parks and Recreation and Open Space Ordinance (Durham City Code - Chapter 25) was approved at 9:37 p.m. by the following vote: Ayes: Council Members Ali, Brown, Catotti and Woodard. Noes: . Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Member Clement. Absent: None.

Ordinance #13592

Note: Revised ordinance referencing City Code sections 30-83 and 30-84 were distributed at the meeting.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: AMENDMENT TO CONTRACT BETWEEN THE CITY OF DURHAM AND E.G. & G., INC. FOR STREETScape DESIGN AND PLANNING SERVICES TO INCREASE SCOPE OF SERVICES, CONTRACT TERMINATION DATE AND CONTRACT AMOUNT

Council Member Ali asked questions regarding the price points that were answered by staff.

MOTION by Council Member Clement seconded by Council Member Ali to authorize the City Manager to execute an amendment to the Contract between the City of Durham and E.G. & G., Inc. for Streetscape Design and Planning Services in Targeted Community Development Areas increasing the original contract amount by \$61,980.00 for a total contract amount of \$299,945.00; and

To authorize the City Manager to make changes to the contract Amendment as may be necessary so as long as they do not increase the amount paid by the City nor limit the benefits to be received by the City was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: U.S. ENVIRONMENTAL PROTECTION AGENCY FY 2008 BROWNFIELDS JOB TRAINING GRANT PROJECT ORDINANCE

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Council Member Ali asked questions regarding North East Central Durham that were answered by staff.

MOTION by Council Member Ali seconded by Council Member Woodard to authorize the City Manager to accept the U.S. Environmental Protection Agency FY 2008 Brownfields Job Training Grant by executing the grant documents; and

To adopt the U.S. Environmental Protection Agency FY 2008 Brownfields Job Training Grant Project Ordinance was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13584

SUBJECT: INSTALLMENT FINANCING CONTRACT SERIES 2008

Council Member Ali asked for clarification on the dollar amount requested by staff.

Interim Finance Director Keith Herrmann explained that staff will always ask for an additional 15 to 20 percent appropriation to address any adjustments made by the bank.

MOTION by Council Member Ali seconded by Council Member Woodard to adopt a Resolution of the City Council of the City of Durham, North Carolina, Authorizing the Negotiation of an Installment Financing Contract, Directing the Publication of Notice with Respect Thereto and Providing for Certain other Related Matters Thereto was approved at 9:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9546

There being no further business to come before the City Council, the meeting was adjourned at 9:44 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk

May 5, 2008